

### Remarks

The Office Action dated December 4, 2009, indicates an objection to the drawings and the following rejections: claims 1-6, 8-9 and 11-14 stand rejected under 35 U.S.C. § 103(a) over Wilkerson (U.S. Patent No. 7,143,272); claims 7 and 15 stand rejected under 35 U.S.C. § 103(a) over the '272 reference in view of the Chang reference ("Improving Branch Prediction Accuracy by Reducing Pattern History Table Interference"); claims 10 and 16 stand rejected under 35 U.S.C. § 103(a) over the '272 reference in view of LeFevre (U.S. Patent No. 6,854,066); and claims 17-20 stand rejected under 35 U.S.C. § 103(a) over the '272 reference in view of the Kime reference ("Logic and computer design fundamentals"). In the following discussion, Applicant does not acquiesce in any regard to averments in this Office Action.

Applicant respectfully traverses the § 103(a) rejections of all claims over the '272 reference. The '272 reference, alone or in combination with any of the asserted references, fails to correspond to certain aspects of the claimed invention directed to system activity that is indicative of a level of logic state changes since a previous branch. The Office Action appears to be asserting that the computational history of the '272 reference corresponds to such system activity. In making this assertion the Office Action at page 4 argues that "computation history can be indicative of how many logic state changes have occurred by how much activity has occurred for the specific register." The Office Action cites to no portion of the '272 reference to support this assertion, and it appears to Applicant that there is no support for such an assertion in the '272 reference. Moreover, given a multitude of different types of computation and/or compilations thereof, Applicant fails to appreciate the logic behind this unsupported conclusion. Therefore, the '272 reference, alone or in combination with any of the asserted references, fails to provide correspondence to the claimed invention. Applicant requests the § 103 rejections of all claims be withdrawn.

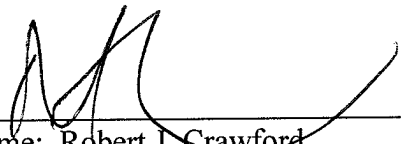
Further, the Office Action's position appears to amount to an inherency argument regarding system activity. Under M.P.E.P. § 2112, the Office Action must provide evidence/rational tendency to show inherency. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." M.P.E.P. § 2112. The Office Action has

failed to provide such a basis for the determination that "computation history can be indicative of how many logic state changes have occurred." Therefore, the § 103 rejections are improper and applicant requests they be withdrawn.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, David Schaeffer, of NXP Corporation at (212) 876-6170.

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